

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-2777

D. JOHNSON WILLIS,

Plaintiff - Appellant,

versus

TOWN OF TRENTON, NORTH CAROLINA; JOFFREE T. LEGGETT; CHARLES C. JONES, Individually and as member of Town Council; EDWARD EUBANKS, Individually and as Member of Town Council; EDWARD PARKER, Individually and as former member of Town Council; ANN BROCK, Individually as former member of Town Council; CLIFTON MILLS, SR., Individually and as former member of Town Council; BOB D. HENDERSON, Individually and as former member of Town Council; JAMES R. FRANCK, Individually and as former Town Mayor; SHERI M. DAVENPORT, Individually and as former member of Town Council; HARVEY ROUSE, SR., Individually; GEORGE W. DAVENPORT, Individually and as former Town Mayor; C. GLENN SPIVEY, Individually and as Town Clerk; JESSE J. THOMAS, Individually; WILLARD ODELL LEWIS, Individually and as a Member of Town Council; CAROL M. HOOD, Executrix of the will of James R. Hood, deceased,

Defendants - Appellees.

No. 95-2992

D. JOHNSON WILLIS,

Plaintiff - Appellant,

versus

TOWN OF TRENTON, NORTH CAROLINA; JOFFREE T. LEGGETT; CHARLES C. JONES, Individually and as member of Town Council; EDWARD EUBANKS, Individually and as Member of Town Council; WILLARD ODELL LEWIS, Individually and as a Member of Town Council; EDWARD PARKER, Individually and as former member of Town Council; CLIFTON MILLS, SR., Individually and as former member of Town Council; BOB D. HENDERSON, Individually and as former member of Town Council; JAMES R. FRANCK, Individually and as former Mayor; SHERI M. DAVENPORT, Individually and as former member of Town Council; HARVEY ROUSE, SR., Individually; GEORGE W. DAVENPORT, Individually and a former Town Mayor; C. GLENN SPIVEY, Individually and as Town Clerk; JESSE J. THOMAS, Individually; CAROL M. HOOD, Executrix of the will of James R. Hood, deceased,

Defendants - Appellees.

No. 96-1023

D. JOHNSON WILLIS,

Plaintiff - Appellant,

versus

TOWN OF TRENTON, NORTH CAROLINA; JOFFREE T. LEGGETT; CHARLES C. JONES, Individually and as member of Town Council; EDWARD EUBANKS, Individually and as Member of Town Council; EDWARD PARKER, Individually and as former member of Town Council; ANN BROCK, Individually as former member of Town Council; CLIFTON MILLS, SR., Individually and as former member of Town Council; BOB D. HENDERSON, Individually and as former member of Town Council; JAMES R. FRANCK, Individually and as former Town Mayor;

SHERI M. DAVENPORT, Individually and as former member of Town Council; HARVEY ROUSE, SR., Individually; GEORGE W. DAVENPORT, Individually and as former Town Mayor; C. GLENN SPIVEY, Individually and as Town Clerk; JESSE J. THOMAS, Individually; WILLARD ODELL LEWIS, Individually and as a Member of Town Council, CAROL M. HOOD, Executrix of the will of James R. Hood, deceased,

Defendants - Appellees.

Appeals from the United States District Court for the Eastern District of North Carolina, at Greenville. Terrence W. Boyle, District Judge. (CA-94-152-4-BO)

Submitted: March 21, 1996

Decided: April 2, 1996

Before NIEMEYER and MICHAEL, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

D. Johnson Willis, Appellant Pro Se. Charles Christopher Henderson, Trenton, North Carolina; Dal Floyd Wooten, III, Kinston, North Carolina; Louis F. Foy, Jr., BROCK, FOY & DAVENPORT, Trenton, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant noted the appeal in No. 95-2777 outside the thirty-day appeal period established by Fed. R. App. P. 4(a)(1), failed to obtain an extension of the appeal period within the additional thirty-day period provided by Fed. R. App. P. 4(a)(5), and is not entitled to relief under Fed. R. App. P. 4(a)(6). The time periods established by Fed. R. App. P. 4 are "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). The district court entered its order on April 19, 1995; Appellant's notice of appeal was filed on September 25, 1995. Appellant's failure to note a timely appeal or obtain an extension of the appeal period deprives this court of jurisdiction to consider this case. We therefore dismiss this appeal.

Appellant timely appealed the district court order entered on October 25, 1995, in Nos. 95-2992 and 96-1023. The subject of these appeals is the district court's order striking Appellant's untimely notice of appeal. The district court did not have jurisdiction to strike the untimely notice of appeal. See Liles v. South Carolina Dep't of Corrections, 414 F.2d 612, 614 (4th Cir. 1969). However, we dismiss these appeals as moot because the untimely appeal was transmitted to this court, so the Appellant received the relief he sought.

We deny Appellant's motion for oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED